

LAW OFFICES  
**SCHWARTZ, WOODS & MILLER**  
SUITE 610, THE LION BUILDING  
1233 20TH STREET, N.W.  
WASHINGTON, D.C. 20036-7322

LAWRENCE M. MILLER  
STEVEN C. SCHAFER  
MALCOLM G. STEVENSON

TELEPHONE 202-833-1700  
FACSIMILE 202-833-2351  
WRITER'S EMAIL: [schaffer@swmlaw.com](mailto:schaffer@swmlaw.com)  
WRITER'S EXTENSION: 204

OF COUNSEL  
ROBERT A. WOODS  
TAX COUNSEL  
MARK B. WEINBERG  
LOUIS SCHWARTZ  
(1918 - 2004)

August 5, 2005

Ms. Marlene H. Dortch, Secretary  
Federal Communications Commission  
The Portals Building, Room TW-B204  
445-12th Street, S.W.  
Washington, D.C. 20554

Re: Noncommercial Station WEDH-DT  
Hartford, CT  
Facility ID No. 13602  
FRN No. 0003574662  
**MB Docket No. 03-15**

Dear Ms. Dortch:

Connecticut Public Broadcasting, Inc. (CPBI), Licensee of Station WEDH(TV), Hartford, Connecticut, and an applicant for DTV construction permit for WEDH-DT, hereby requests a waiver and extension of the construction deadline for Station WEDH-DT to build a "checklist" DTV facility.<sup>1</sup> The waiver is justified by financial and technical reasons of a type which has previously justified the grant of extensions of DTV construction permits, including a permit held by CPBI. Order, "In the Matter of DTV Build-out; Requests for Extension of the Digital Television Construction Deadline; Noncommercial Educational Television Stations With May 1, 2003 Deadline," 20 FCC Rcd 5783 (2005)

---

<sup>1</sup> CPBI is making this filing out of an abundance of caution, inasmuch as the Public Notice DA 05-1636 (June 15, 2005) "DTV Channel Election Issues" provided instructions only for "stations ...subject to the July 1, 2005 replication/maximization interference protection deadline" (i.e. commercial stations affiliated with the top-four networks in markets 1-100). The Commission has apparently not established procedures for noncommercial station filings, as those stations are subject to a July 1, 2006 replication/maximization deadline, and so CPBI is following the procedures in the June 15, 2005 notice for this filing based on informal staff advice. CPBI acknowledges that the filing is a day past the deadline established in the Public Notice and has endeavored to file as quickly as possible once the requirement was realized, and believes the single days' tardiness can be excused in the public interest of establishing DTV service in the Hartford, Connecticut area.

CPBI is a non-profit 501(c)(3) organization that has been serving the state of Connecticut with public broadcasting services since 1962. CPBI is the licensee of four television stations and four radio stations. CPBI has met the May 1, 2003 deadline for activation of DTV service by its Stations WEDW, Bridgeport, and WEDN, Norwich. It has filed for extension of the construction permit for Station WEDY, New Haven. (FCC Files No. BEPEDT-20030303AAY, BEPEDT- 20030923ACF, BEPEDT-20040604ABH and BEPEDT-20050715ABO (pending)). However, a digital construction permit has yet to be issued for the flagship station WEDH.

In brief, CPBI has filed applications for the exchange of the DTV channels assigned to its Stations WEDH and WEDN, such that Channel 45 DTV will be relocated to a tower on Rattlesnake Mountain as the digital channel for WEDH, and Channel 32 DTV will be used, if needed, by WEDN (FCC File No. BPEDT-19990113KG, as amended October 8, 2003; and FCC File No. BMPEDT-20031008AAT, respectively).<sup>2</sup> Relocation of the analog channel 24 for Station WEDH to the same tower has already been authorized by the FCC, pursuant to an agreement with The Tribune Company and The E.W. Scripps Company (FCC File No. BPET-20040715ACJ).

The use of Channel 32 DTV would become unnecessary, however, if CPBI can utilize Channel 9 DTV at Norwich, as is under consideration by the Commission in Docket No. 04-184 (DA No. 04-1318). As stated in its Petition for Rulemaking, CPBI believes the public interest would be served by use of Channel 9 as it would substantially reduce operating costs and allow scarce funds to be used for public service programming instead.<sup>3</sup>

In addition to these technical complications of conversion to broadcast DTV, CPBI has relocated its studios and offices to a new location within Hartford, and totally redesigned the origination plant to accommodate digital and multi-channel broadcasting, all of which required enormous amounts of staff time and money. It would not be fiscally responsible for CPBI to expend funds for a Channel 32 transmitter which might not be needed. Moreover, the Rattlesnake tower, even if it could be used for a temporary Channel 32 facility, is not within the "checklist" distance and so an alternative location would be required for WEDH-DT. The tower on which WEDH(TV) is located is unavailable to CPBI for a digital transmitter, and as described above, will not be used for analog once the plan described above is implemented.

CPBI is committed to prompt construction of DTV facilities upon resolution of the application and rulemaking issues cited above. Accordingly, CPBI believes these financial and technical problems justify the waiver of the Commission's policy requiring construction of "checklist" applications in view of its long-standing commitment and

---

<sup>2</sup> CPBI filed a further amendment on March 18, 2004 to the Channel 45 Hartford proposal to meet objections to the channel exchange applications filed by The Walt Disney Company and others. However, the applications have not yet been processed by the Commission. CPBI has attempted to privately resolve the issues raised in the objections, but without success. Additionally, the FCC staff has not responded to inquiries as to whether there are Canadian clearance issues that might be holding up the processing of the applications.

<sup>3</sup> Comments in opposition to the proposal were lodged by Hearst-Argyle Properties, Inc., on July 6, 2004 and CPBI filed a reply on July 14, 2004.

development of its educational DTV service, and in accordance with the criteria previously established for extending the DTV build-out deadlines for stations with a DTV construction permit.

Respectfully submitted,

SCHWARTZ, WOODS & MILLER

By:   
Steven C. Schaffer

cc: Shaun Maher, FCC Room 2-A820

SCS/mkm

---